

FIRST REGULAR SESSION

SENATE BILL NO. 471

93RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR ENGLER.

Read 1st time February 28, 2005, and ordered printed.

TERRY L. SPIELER, Secretary.

1752S.03I

AN ACT

To amend chapter 304, RSMo, by adding thereto one new section relating to the certification of certain tow truck operators, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 304, RSMo, is amended by adding thereto one new section, to be known as section 304.165, to read as follows:

304.165. 1. Beginning July 1, 2006, no person shall operate a heavy duty towing vehicle to remove abandoned property under sections 304.155 to 304.158, or property directed to be moved by law enforcement, without holding a certificate issued by the state highway patrol authorizing such person to engage in such activities. As used in this section, "heavy duty towing vehicle" shall mean any vehicle with a gross vehicle weight rating of twenty-six thousand one pounds or greater used to tow motor vehicles, trailers, and other property.

2. An application for a certificate shall be on forms furnished by the state highway patrol and shall be accompanied by proof that the person:

(1) Possesses and will maintain an appropriate commercial driver's license classification;

(2) Maintains a valid liability insurance policy upon the heavy duty towing vehicle issued by an insurer authorized to do business in this state, or a bond or other acceptable surety in the amount of at least seven hundred fifty thousand dollars;

(3) Has obtained the current annual Missouri vehicle inspection certificate as required by law; and

(4) Has been tested and certified by a national program which has been funded by federal or state government to perform any law enforcement calls, as determined by the Missouri state highway patrol;

3. If the applicant meets the requirements of subsection 2 of this section, the

highway patrol shall issue a certificate to such person. Any person obtaining a certificate under this section shall maintain such certificate in the heavy duty towing vehicle and shall exhibit it on demand of any peace officer. Such certificate shall be valid for one year after its issuance. The state highway patrol shall charge a fee of fifty dollars for the initial certificate issued under this section and a renewal fee of twenty-five dollars for each year thereafter.

4. Insurance companies insuring heavy duty towing vehicles shall notify the Missouri state highway patrol immediately upon the cancellation or reduction of insurance below the minimum amount required in subsection 2 of this section.

5. Law enforcement may demand proof of the above requirements immediately after the driver arrives at the scene of the abandoned property or law enforcement request for assistance. A driver who is not registered under this section shall not be permitted to work the scene. Any person who attempts to tow abandoned property at the request of law enforcement without holding a registration certificate issued under this section shall be guilty of a class A misdemeanor.

6. A towing company or the employer of heavy duty towing vehicle drivers shall verify to the state highway patrol by July 1, 2006, of the names of such eligible employees, their appropriate commercial driver license information, and proof of the insurance requirements. Towing companies and employers of heavy duty towing vehicles shall annually update this information. Any individual having five or more years experience operating heavy duty towing vehicles, prior to July 1, 2006, shall be exempt from the provisions of subdivision (4) of subsection 2 of this section. The state highway patrol shall send those individuals an exemption notification certificate, which shall be kept on their person when operating heavy duty towing vehicles, for inspection by law enforcement. This exemption shall not eliminate the requirements of subdivisions (1), (2), and (3) of subsection 2 of this section.

7. There is hereby established by the treasurer of the state of Missouri a fund to be entitled as the "Heavy Duty Towing Vehicle Enforcement Fund". All fees collected under this section shall be deposited in the state treasury for the purpose of administering and enforcing the provisions of this section. The moneys collected and deposited in the fund shall be expended subject to appropriations by the general assembly for the administration and enforcement of this section by the Missouri state highway patrol. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, if the moneys collected and deposited into this fund are not totally expended annually for the purposes set forth in this section, the unexpended moneys in such fund shall remain in the fund and the balance shall

be kept in the fund to accumulate from year to year.

8. The state highway patrol shall promulgate rules as are necessary to implement this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2005, shall be invalid and void.

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